



Neutral Citation Number: [2023] EWHC 2956 (Admin)

Case No: CO/1551/2023
AC-2023-LON-001323

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Tuesday, 21st November 2023

Before:
FORDHAM J

Between:
KAMIL SIKORA **Appellant**
- and -
DISTRICT COURT IN KOSZALIN (POLAND) **Respondent**

Ben Joyes (represented by Lawrence & Co Solicitors) for the **Appellant**
The **Respondent** did not appear and was not represented

Hearing date: 21.11.23

Judgment as delivered in open court at the hearing

Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

FORDHAM J

Note: This judgment was produced and approved by the Judge, after using voice-recognition software during an ex tempore judgment.

FORDHAM J:

1. The Appellant is aged 32 and is wanted for extradition to Poland. That is in conjunction with a conviction Extradition Arrest Warrant issued on 11 September 2017 and certified on 17 March 2021, on which he was arrested on 13 August 2021 before being released on conditional bail on 24 August 2021. The Extradition Arrest Warrant relates to a 12 month custodial sentence, imposed originally as a suspended sentence with a 3 year suspension period. That was after a trial which the Appellant attended in Poland, when he pleaded guilty. The offence is one of assault committed at the age of 17 in 2009. He and another individual assaulted the victim, hitting them with a plastic bread container, and causing the victim injuries to the face and the hand. Extradition was ordered by District Judge Sternberg on 25 April 2023 after an oral hearing that day at which the Appellant was represented by Counsel and gave live evidence.
2. The Appellant had previously succeeded in a claim for judicial review on 29 November 2022. The Court quashed a decision of 23 December 2021 ordering his extradition after an oral hearing at which he had been absent. Mr Joyes invited my attention to the judgment of the Divisional Court in those judicial review proceedings and particular the observations at [2022] EWHC 3516 (Admin) §§16 and 20, as to the circumstances in which the earlier hearing had proceeded in absence and the case was remitted for a fresh extradition hearing.
3. The Appellant had come to the United Kingdom in 2010. He has a sister in the UK who he sees once a month and uncles here who he sees every 2 to 3 months. He has a 13 year old son in Poland, with whom he has lost contact, the son being from a relationship which ended in February 2011. The Judge unassailably found that the Appellant had left Poland for the UK, as a fugitive. The Judge rehearsed the detailed chronology. It suffices to say this. During the suspension period, and the probation conditions on which the suspension was conditional, the Appellant knew that he needed to notify probation in Poland of any change of address. He came to the UK, knowing and intending not to comply with that obligation. He knew about the conditions of the suspended sentence. He knew that they were being breached. He knew that the sentence stood to be activated. And so it was, in May 2011.
4. Mr Joyes says that there are in this case substantial periods of “culpable” delay – or “partially attributable” delay, as he put it today – on the part of the Polish authorities, which cannot be attributed to the Appellant’s fugitivity. He points to the period of time between May 2011 when the suspended sentence was activated, through to September 2017 when the Extradition Arrest Warrant was issued. He says the Polish authorities are recorded as having information that the Appellant was “abroad”; so they should have issued an Extradition Arrest Warrant at a much earlier stage. He cites as an illustrative judgment, Tomaszewicz v Poland [2013] EWHC 3670 (Admin) at §§6 and 9. He rightly recognises that cases are fact specific and context specific.
5. As the Judge rightly recorded, the authorities had no specific information as to the Appellant’s whereabouts. In September 2012 the authorities were still making domestic searches in Poland. In February 2017 they came to believe that he was probably in the Netherlands. The Extradition Arrest Warrant followed in September of that year. Then by February 2019 the Polish authorities were aware that the Appellant was in the UK. His passport was cancelled. He was eventually arrested on

the Extradition Arrest Warrant, after an encounter with the authorities in August 2021 and a computer check. The context for this whole passage of time is that the Appellant was himself under a concrete obligation to supply to the Polish authorities any new address, which he had deliberately failed to do and avoided doing.

6. Mr Joyes maintains that there is a further significant period of relevant delay caused by the “judicial error” – as he puts it – in December 2021, leading to the order for judicial review in November 2022. That was a passage of time in which the Appellant was facing extradition action, and the legal process, including his rights of access to the court.
7. The passage of time can serve to reduce the weight of the public interest in support of extradition. It can serve to strengthen the private and family life ties capable of weighing against extradition. But I cannot accept, even arguably, that this is a case of substantial culpable delay, whether by the Polish authorities or the UK authorities. Nor is it a case where the passage of time has involved the development of family life relationships, for example involving an innocent partner or child, whose Convention rights are engaged and who will suffer a serious impact.
8. Alongside these points about the passage of time, Mr Joyes emphasises a number of other features of the case. They include the following. The conviction for the assault is the single conviction against the Appellant anywhere at any time in his 32 year life. The Appellant is plainly fully rehabilitated. The offence is not, relatively speaking, at the serious end of the spectrum. The Appellant was a minor (aged 17) at the time of the offending in 2009. He had had a difficult upbringing, including a violent home life and a period of homelessness. He would be a good candidate for early release in Poland. That means the custodial sentence of 12 months can really be seen as 6 months, less the qualifying remand. He has served 12 days qualifying remand. He has been on a curfew for 2 years 3 months. That period was longer than usual, because of the need for the extradition hearing to take place again, in the circumstances which were the subject of the Divisional Court’s judgment in the judicial review proceedings. The Appellant has now 13 years of private life and community ties, together with his extended family relationships, in the UK from the age of 18 to 32. That is the entirety of his adult life.
9. All of these features, and the other relevant features of the case, were clearly and properly identified and evaluated by the Judge. This is a 12 month custodial sentence. Neither qualifying remand, nor arguments about a prospect of early release, come close to extinguishing it. This was a two-person assault causing injury. The Appellant’s life in the UK has been built on his fugitivity. There are no innocent third party family members whose Convention rights are being interfered with. There is, in my judgment, no realistic prospect that this Court at a substantive appeal would overturn the outcome as wrong. I agree with Johnson J’s conclusion on the papers, having looked at the matter myself afresh, and will refuse the application for permission to appeal.